

The letter continued: "You should know that we have confirmed that, as recently as this past winter and spring, a member of a terrorist group closely affiliated with al Qaeda used Internet services provided by a public library. This terrorist used the library's computer to communicate with his confederates. Beyond this we are unable to comment."

This letter is to the gentleman from Wisconsin (Mr. SENSENBRENNER), Mr. Chairman; and I am providing it herewith for the RECORD.

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 8, 2004.

Hon. F. JAMES SENSENBRENNER, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: In anticipation of the U.S. House of Representatives' consideration of an amendment that would prevent the Justice Department from obtaining records from public libraries and bookstores under section 215 of the USA PATRIOT Act, your staff has recently inquired about whether terrorists have ever utilized public library facilities to communicate with others about committing acts of terrorism. The short answer is "Yes."

You should know we have confirmed that, as recently as this past winter and spring, a member of a terrorist group closely affiliated with al Qaeda used internet services provided by a public library. This terrorist used the library's computer to communicate with his confederates. Beyond this, we are unable to comment.

We hope this information is useful to you and your colleagues as you consider amendments relating to the USA Patriot Act.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, reasonable men and women can disagree, and hopefully disagree agreeably, and this is a situation where this is going to happen. I think convincing arguments can be made on each side of the issue. And I do not want to sound like I am knee-jerking responding to this, but should terrorists be able to use taxpayer-funded public library facilities to plot a major attack without fear they will be investigated by the FBI?

I think that could come to play if this amendment is, in fact, enacted. As I understand my friend from Vermont, the amendment would exempt public libraries and book stores from section 215 of the USA PATRIOT Act, which permits the FBI, after obtaining a Federal court order, and I repeat, after obtaining a Federal court order, to obtain documents and other records relevant to international terrorism and espionage cases.

Now, there has been no abuse in this matter, Mr. Chairman. On September 18 of last year, the number of times to date that the Justice Department had utilized section 215 of the USA PATRIOT Act relating to the production

of business records was declassified, and at that time it was made known that the number of times section 215 had been used as of that date was zero. So, obviously, there is no abuse here.

Furthermore, section 215, Mr. Chairman, provides for a thorough congressional oversight. Every 6 months the Attorney General is required to inform the Congress on the number of times agents have sought a court order under section 215, as well as the number of times its requests were granted, modified, or denied. No abuse at all on this. And I just believe we should vote down the amendment.

Mr. SANDERS. Mr. Chairman, I yield myself 15 seconds before I yield to the gentleman from New York (Mr. NADLER) to tell my friends that it is not accurate that under this amendment that the FBI cannot go into libraries and book stores. They sure can. They can get subpoenas. They can go to the grand jury. They can do it in the conventional way. We have no objection to that. But they cannot have a carte blanche, no probable cause to check on the reading records of the American people.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, we have to be very careful that because of this war on the Islamic terrorists we do not destroy our own civil liberties. The PATRIOT Act was passed in great haste, and parts of it do exactly that.

The gentleman from Virginia says this amendment should not be considered without hearings by the Committee on the Judiciary and given proper consideration, but the fact is there were no hearings before we passed the PATRIOT Act. The PATRIOT Act was warm to the touch. No one read it before it passed this House. No one knew what was in it. The bill that came out of committee was not the bill considered by the House. So that is where the original flaw lies.

We should now pass this amendment not to make libraries an exempt zone. As the sponsor, the gentleman from Vermont (Mr. SANDERS), said, police will still be able to obtain records, so long as they can justify their actions based on probable cause. What is the difference if this amendment passes? The difference is between good police work and a fishing expedition.

Do we want the government rummaging through the records of average Americans without reason, or do we want to insist at the very least that searches be based on probable cause? That is the issue. That is the issue: probable cause.

The Supreme Court of the United States, the Rehnquist court, gave a rap in the teeth to the administration last week for claiming powers that no executive in an English-speaking society has claimed since before Magna Carta. We do not want tyranny. We do not want tyranny.

This amendment is designed to say you can read without being afraid the

government will someday reveal what you are reading. We do not want the chilling effect on free speech. If there is a real reason, if the government suspects someone is looking up how to make atom bombs, go to a court and get a search warrant, show probable cause. That is the way it worked for 200 years. It worked against the Nazis in World War II, it worked in the Civil War, and it will work today. We need not surrender fundamental liberty, and we should not.

That is what this amendment is about, and that is why we should urge its adoption.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me this time.

I have 70 constituents who lost their rights on September 11; and to hear this debate, I am not sure we seem to care about that. Something told me on September 11 that we had received a wake-up call from hell, and that wake-up call from hell indicated we have to detect and prevent, because the old Cold War philosophy of contain and react and mutually assured destruction went out the window.

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On an appropriations bill, we are trying to amend the PATRIOT Act because some librarians find it offensive that we may want to go in and find out who a terrorist talks with when they use a computer, and we are going to have another amendment that basically says we need to tell them first that we think they are a terrorist.

If we are going to detect and prevent, we have to break into these cells, and the only alternative left if we see this amendment pass is that we would then have to go before a grand jury and state our case, without probable cause, I might add, but state our case when we are talking about significant national security issues. We may be talking about a chemical weapon, a nuclear weapon. We may be talking about a biological agent. We may be talking about breaking into a cell to prevent that, and yet we are going to be told now we need to go before a grand jury to do the same things we can do in ordinary criminal cases.

I am amazed beyond comprehension at the lack of recognition that it is not a question of if; it is a question of when, where, and what magnitude we are going to have to face these kinds of attacks.

And I know what is going to happen when these attacks happen. There will be Members coming back to the floor saying how come the CIA did not know? How come our intelligence community did not know? Why did they fail us again? And we are going to tie their hands behind their backs anyway and say we have to let a terrorist know first before we break into a terrorist cell.